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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,918	12/20/2001	Kunihito Miyake	2185-0604P	2108

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EXAMINER

SANDERS, KRIELLION ANTIONETTE

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 07/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/022,918	Applicant(s) MIYAKE ET AL.	
	Examiner Kriellion A. Sanders	Art Unit 1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☒ Claim(s) 16 and 17 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1+. 6) ☐ Other: .

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1. Claims 5, 6, 10, 11 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
2. Claims 5, 6, 10, 11 and 15 recite the limitation "high impact polystyrene" in line 5. There is insufficient antecedent basis for this limitation in the claim, since polystyrene is not a butadiene.
3. In claim 17 at line 1, "melting" is spelled incorrectly.
4. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The effective amount is not defined in either a quantitative or functional manner.
5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-15 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Inoue et al, US Patent No. 6,465,548.

Inoue et al discloses stabilizers for synthetic resin compositions and resulting compositions from the admixture of these components. The stabilizers, which are 6-hydroxychromans, directly correspond to the compounds of applicant's formula (I-1). A suitable polymer that may be stabilized by the 6-hydroxychromans stabilizers is styrene/butadiene copolymer. The weight ratios of stabilizer and resinous components overlap those of applicant's claims. See col.7, line 7 through col. 8, line 39, col. 25, line 47 through col. 26, line 42 and col. 27 lines 39-67. Also see col. 31, lines 14-55 wherein conventional methods for mixing the compositions are set forth as well as procedures for producing a molded article.

Applicant's claims are clearly anticipated by the reference. Furthermore, since styrene/butadiene is considered to be a "butadiene type" resin, the formulation of a "butadiene type" resin composition comprising a 6-hydroxychroman component followed by subsequent formation into an article would have been obvious to one of ordinary skill in the art at the time of applicant's invention absent a clear showing of unexpected results attributable to a claimed parameter.

8. Claims 1-15 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Inui et al, US Patent No. 5,665,799.

Inui et al discloses stabilizers for synthetic butadiene resin compositions as well as compositions and articles formulated from these components. The hydroxy flavan stabilizers of the invention are considered to be analogous to the 6-hydroxychroman compounds of Inoue

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described above, and also directly correspond to the compounds of applicant's formula (I-1).

The weight ratios of stabilizer and resinous components utilized in the Inui et al invention overlap those of applicant's claims. See col.2, line 59 through col. 4, line 6 and col.5, line 27 through line 39.

Applicant's claims are clearly anticipated by the reference. Furthermore, since, the formulation of a "butadiene type" resin composition comprising a hydroxy flaven component followed by subsequent formation into an article would have been obvious to one of ordinary skill in the art at the time of applicant's invention absent a clear showing of unexpected results attributable to a claimed parameter.

9. Claims 16 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kriellion A. Sanders whose telephone number is 703-308-2435. The examiner can normally be reached on Monday through Thursday 6:30-7:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 703-306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2351.

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Kriellion A. Sanders
Primary Examiner
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July 23, 2003